

96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } No. 96-71

TAIWAN RELATIONS ACT

MARCH 24, 1979.—Ordered to be printed

Mr. ZABLOCKI, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 2479]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2479) to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Taiwan Relations Act".

FINDINGS AND DECLARATION OF POLICY

Sec. 2. (a) The President having terminated governmental relations between the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, the Congress finds that the enactment of this Act is necessary—

(1) to help maintain peace, security, and stability in the Western Pacific; and

(2) to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan.

(1)

(b) It is the policy of the United States—

(1) to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan, as well as the people on the China mainland and all other peoples of the Western Pacific area;

(2) to declare that peace and stability in the area are in the political, security, and economic interests of the United States, and are matters of international concern;

(3) to make clear that the United States decision to establish diplomatic relations with the People's Republic of China rests upon the expectation that the future of Taiwan will be determined by peaceful means;

(4) to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts, or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States;

(5) to provide Taiwan with arms of a defensive character; and

(6) to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.

(c) Nothing contained in this Act shall contravene the interest of the United States in human rights, especially with respect to the human rights of all the approximately 18 million inhabitants of Taiwan. The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

IMPLEMENTATION OF UNITED STATES POLICY WITH REGARD TO TAIWAN

SEC. 3. (a) In furtherance of the policy set forth in section 2 of this Act, the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.

(b) The President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan, in accordance with procedures established by law. Such determination of Taiwan's defense needs shall include review by United States military authorities in connection with recommendations to the President and the Congress.

(c) The President is directed to inform the Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom. The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.

APPLICATION OF LAWS; INTERNATIONAL AGREEMENTS

SEC. 4. (a) The absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the laws of the United States shall apply with respect

to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.

(b) The application of subsection (a) of this section shall include, but not be limited to, the following:

(1) Whenever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan.

(2) Whenever authorized by or pursuant to the laws of the United States to conduct or carry out programs, transactions, or other relations with respect to foreign countries, nations, states, governments, or similar entities, the President or any agency of the United States Government is authorized to conduct and carry out, in accordance with section 6 of this Act, such programs, transactions, and other relations with respect to Taiwan (including, but not limited to, the performance of services for the United States through contracts with commercial entities on Taiwan), in accordance with the applicable laws of the United States.

(3) (A) The absence of diplomatic relations and recognition with respect to Taiwan shall not abrogate, infringe, modify, deny, or otherwise affect in any way any rights or obligations (including but not limited to those involving contracts, debts, or property interests of any kind) under the laws of the United States heretofore or hereafter acquired by or with respect to Taiwan.

(B) For all purposes under the laws of the United States, including actions in any court in the United States, recognition of the People's Republic of China shall not affect in any way the ownership of or other rights or interests in properties, tangible and intangible, and other things of value, owned or held on or prior to December 31, 1978, or thereafter acquired or earned by the governing authorities on Taiwan.

(4) Whenever the application of the laws of the United States depends upon the law that is or was applicable on Taiwan or compliance therewith, the law applied by the people on Taiwan shall be considered the applicable law for that purpose.

(5) Nothing in this Act, nor the facts of the President's action in extending diplomatic recognition to the People's Republic of China, the absence of diplomatic relations between the people on Taiwan and the United States, or the lack of recognition by the United States, and attendant circumstances thereto, shall be construed in any administrative or judicial proceeding as a basis for any United States Government agency, commission, or department to make a finding of fact or determination of law, under the Atomic Energy Act of 1954 and the Nuclear Non-Proliferation Act of 1978, to deny an export license application or to revoke an existing export license for nuclear exports to Taiwan.

(6) For purposes of the Immigration and Nationality Act, Taiwan may be treated in the manner specified in the first sentence of section 202(b) of that Act.

(7) The capacity of Taiwan to sue and be sued in courts in the United States, in accordance with the laws of the United States, shall not be abrogated, infringed, modified, denied, or otherwise affected in any way by the absence of diplomatic relations or recognition.

(8) *No requirement, whether expressed or implied, under the laws of the United States with respect to maintenance of diplomatic relations or recognition shall be applicable with respect to Taiwan.*

(c) *For all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with law.*

(d) *Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution or any other international organization.*

OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 5. (a) *During the three-year period beginning on the date of enactment of this Act, the \$1,000 per capita income restriction in clause (2) of the second undesignated paragraph of section 231 of the Foreign Assistance Act of 1961 shall not restrict the activities of the Overseas Private Investment Corporation in determining whether to provide any insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan.*

(b) *Except as provided in subsection (a) of this section, in issuing insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan, the Overseas Private Insurance Corporation shall apply the same criteria as those applicable in other parts of the world.*

THE AMERICAN INSTITUTE IN TAIWAN

SEC. 6. (a) *Programs, transactions, and other relations conducted or carried out by the President or any agency of the United States Government with respect to Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through—*

(1) *The American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia, or*

(2) *such comparable successor nongovernmental entity as the President may designate,*
(hereafter in this Act referred to as the "Institute").

(b) *Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to enter into, perform, enforce, or have in force an agreement or transaction relative to Taiwan, such agreement or transaction shall be entered into, performed, and enforced, in the manner and to the extent directed by the President, by or through the Institute.*

(c) *To the extent that any law, rule, regulation, or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Institute is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Institute pursuant to this Act, such law, rule, regulation, or ordinance shall be deemed to be preempted by this Act.*

SERVICES BY THE INSTITUTE TO THE UNITED STATES CITIZENS ON TAIWAN

SEC. 7. (a) *The Institute may authorize any of its employees on Taiwan—*

(1) *to administer to or take from any person an oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to perform within the United States;*

(2) *to act as provisional conservator of the personal estates of deceased United States citizens; and*

(3) *to assist and protect the interests of United States persons by performing other acts such as are authorized to be performed outside the United States for consular purposes by such laws of the United States as the President may specify.*

(b) *Acts performed by authorized employees of the Institute under this section shall be valid, and of like force and effect within the United States, as if performed by any other person authorized under the laws of the United States to perform such acts.*

TAX EXEMPT STATUS OF THE INSTITUTE

SEC. 8. (a) *The Institute, its property, and its income are exempt from all taxation now or hereafter imposed by the United States (except to the extent that section 11(a)(3) of this Act requires the imposition of taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to the Federal Insurance Contributions Act) or by any State or local taxing authority of the United States.*

(b) *For purposes of the Internal Revenue Code of 1954, the Institute shall be treated as an organization described in sections 170(b)(1)(A), 170(c), 2055(a), 2106(a)(2)(A), 2522(a), and 2522(b).*

FURNISHING PROPERTY AND SERVICES TO AND OBTAINING SERVICES FROM THE INSTITUTE

SEC. 9. (a) *Any agency of the United States Government is authorized to sell, loan, or lease property (including interests therein) to, and to perform administrative and technical support functions and services for the operations of, the Institute upon such terms and conditions as the President may direct. Reimbursements to agencies under this subsection shall be credited to the current applicable appropriation of the agency concerned.*

(b) *Any agency of the United States Government is authorized to acquire and accept services from the Institute upon such terms and conditions as the President may direct. Whenever the President determines it to be in furtherance of the purposes of this Act, the procurement of services by such agencies from the Institute may be effected without regard to such laws of the United States normally applicable to the acquisition of services by such agencies as the President may specify by Executive order.*

(c) *Any agency of the United States Government making funds available to the Institute in accordance with this Act shall make arrangements with the Institute for the Comptroller General of the United States to have access to the books and records of the Institute and the opportunity to audit the operations of the Institute.*

TAIWAN INSTRUMENTALITY

Sec. 10. (a) Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to render or provide to or to receive or accept from Taiwan, any performance, communication, assurance, undertaking, or other action, such action shall, in the manner and to the extent directed by the President, be rendered or provided to, or received or accepted from, an instrumentality established by Taiwan which the President determines has the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with this Act.

(b) The President is requested to extend to the instrumentality established by Taiwan the same number of offices and complement of personnel as were previously operated in the United States by the governing authorities on Taiwan recognized as the Republic of China prior to January 1, 1979.

(c) Upon the granting by Taiwan of comparable privileges and immunities with respect to the Institute and its appropriate personnel, the President is authorized to extend with respect to the Taiwan instrumentality and its appropriate personnel, such privileges and immunities (subject to appropriate conditions and obligations) as may be necessary for the effective performance of their functions.

SEPARATION OF GOVERNMENT PERSONNEL FOR EMPLOYMENT WITH THE INSTITUTE

SEC. 11. (a) (1) Under such terms and conditions as the President may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts employment with the Institute.

(2) An officer or employee separated by an agency under paragraph (1) of this subsection for employment with the Institute shall be entitled upon termination of such employment to reemployment or reinstatement with such agency (or a successor agency) in an appropriate position with the attendant rights, privileges, and benefits which the officer or employee would have had or acquired had he or she not been so separated, subject to such time period and other conditions as the President may prescribe.

(3) An officer or employee entitled to reemployment or reinstatement rights under paragraph (2) of this subsection shall, while continuously employed by the Institute with no break in continuity of service, continue to participate in any benefit program in which such officer or employee was participating prior to employment by the Institute, including programs for compensation for job-related death, injury, or illness; programs for health and life insurance; programs for annual, sick, and other statutory leave; and programs for retirement under any system established by the laws of the United States; except that employment with the Institute shall be the basis for participation in such programs only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the program's or system's fund or depository.

Death or retirement of any such officer or employee during approved service with the Institute and prior to reemployment or reinstatement shall be considered a death in or retirement from Government service for purposes of any employee or survivor benefits acquired by reason of service with an agency of the United States Government.

(4) Any officer or employee of an agency of the United States Government who entered into service with the Institute on approved leave of absence without pay prior to the enactment of this Act shall receive the benefits of this section for the period of such service.

(b) Any agency of the United States Government employing alien personnel on Taiwan may transfer such personnel, with accrued allowances, benefits, and rights, to the Institute without a break in service for purposes of retirement and other benefits, including continued participation in any system established by the laws of the United States for the retirement of employees in which the alien was participating prior to the transfer to the Institute, except that employment with the Institute shall be creditable for retirement purposes only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the system's fund or depository.

(c) Employees of the Institute shall not be employees of the United States and, in representing the Institute, shall be exempt from section 207 of title 18, United States Code.

(d) (1) For purposes of sections 911 and 913 of the Internal Revenue Code of 1954, amounts paid by the Institute to its employees shall not be treated as earned income. Amounts received by employees of the Institute shall not be included in gross income, and shall be exempt from taxation, to the extent that they are equivalent to amounts received by civilian officers and employees of the Government of the United States as allowances and benefits which are exempt from taxation under section 912 of such Code.

(2) Except to the extent required by subsection (a)(3) of this section, service performed in the employ of the Institute shall not constitute employment for purposes of chapter 21 of such Code and title II of the Social Security Act.

REPORTING REQUIREMENTS

SEC. 12. (a) The Secretary of State shall transmit to the Congress the text of any agreement to which the Institute is a party. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President.

(b) For purposes of subsection (a), the term "agreement" includes—

(1) any agreement entered into between the Institute and the governing authorities on Taiwan or the instrumentality established by Taiwan; and

(2) any agreement entered into between Institute and an agency of the United States Government.

(c) Agreements and transactions made or to be made by or through the Institute shall be subject to the same congressional notification, review, and approval requirements and procedures as if such agreements and transactions were made by or through the agency of the United States Government on behalf of which the Institute is acting.

(d) During the two-year period beginning on the effective date of this Act, the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, every six months, a report describing and reviewing economic relations between the United States and Taiwan, noting any interference with normal commercial relations.

RULES AND REGULATIONS

SEC. 13. The President is authorized to prescribe such rules and regulations as he may deem appropriate to carry out the purposes of this Act. During the three-year period beginning on the effective date of this Act, such rules and regulations shall be transmitted promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate. Such action shall not, however, relieve the Institute of the responsibilities placed upon it by this Act.

CONGRESSIONAL OVERSIGHT

SEC. 14. (a) The Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and other appropriate committees of the Congress shall monitor—

- (1) the implementation of the provisions of this Act;
- (2) the operation and procedures of the Institute;
- (3) the legal and technical aspects of the continuing relationship between the United States and Taiwan; and
- (4) the implementation of the policies of the United States concerning security and cooperation in East Asia.

(b) Such committees shall report, as appropriate, to their respective Houses on the results of their monitoring.

DEFINITIONS

SEC. 15. For purposes of this Act—

- (1) the term "laws of the United States" includes any statute, rule, regulation, ordinance, order, or judicial rule of decision of the United States or any political subdivision thereof; and
- (2) the term "Taiwan" includes, as the context may require, the islands of Taiwan and the Pescadores, the people on those islands, corporations and other entities and associations created or organized under the laws applied on those islands, and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and any successor governing authorities (including political subdivisions, agencies, and instrumentalities thereof).

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. In addition to funds otherwise available to carry out the provisions of this Act, there are authorized to be appropriated to the Secretary of State for the fiscal year 1980 such funds as may be necessary to carry out such provisions. Such funds are authorized to remain available until expended.

SEVERABILITY OF PROVISIONS

SEC. 17. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

SEC. 18. This Act shall be effective as of January 1, 1979.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill insert the following: "An Act to help maintain peace, security, and stability in the Western Pacific and to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan, and for other purposes."

And the Senate agree to the same.

CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
LESTER L. WOLFF,
DANIEL A. MICA,
TONY P. HALL,
WM. BROOMFIELD,
EDWARD J. DERWINSKI,
PAUL FINDLEY,

Managers on the Part of the House.

FRANK CHURCH,
CLAIBORNE PELL,
JOHN GLENN,
JOE BIDEN,
RICHARD (DICK) STONE,
JACOB J. JAVITS,
CHARLES H. PERCY,
JESSE HELMS,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2479) to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE

The House bill had as its title, "An Act to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan."

The Senate amended the title so as to read: "An Act to promote the foreign policy of the United States by authorizing the maintenance of commercial, cultural, and other relations with the people on Taiwan on an unofficial basis, and for other purposes."

The conference substitute is titled as follows: "An Act to help maintain peace, security, and stability in the Western Pacific and to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan, and for other purposes."

SHORT TITLE

The House bill cited the act as the "United States-Taiwan Relations Act".

The Senate amendment cited the act as the "Taiwan Enabling Act".
The conference substitute cites the act as the "Taiwan Relations Act".

FINDINGS AND DECLARATION OF POLICY

The House bill had a seven-point declaration of principles governing United States policy with regard to Taiwan. These principles included the following: the United States desires to preserve and pro-

mote friendly relations between the people of the United States and the people on Taiwan, as well as with the people on the China mainland and all other peoples of the Western Pacific area; peace and stability in the area are in the political, security, and economic interest of the United States, and are matters of international concern and must be maintained; continued extensive, close and friendly commercial, cultural, and other relations must be assured; the future of Taiwan must be determined through peaceful means without prejudice to the well-being of the people on Taiwan; any armed attack against Taiwan or use of force, boycott, or embargo to prevent Taiwan from engaging in trade with other nations would be a threat to the peace and stability of the Western Pacific area and of grave concern to the United States; in interpreting the word "boycott" in this act, Taiwan shall be considered a "friendly" country under the anti-boycott provisions of the Export Administration Act of 1969; and the United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan. The House bill also contained a statement that nothing in the act shall contravene the President's stated policies and positive interest in human rights, especially with respect to the 18 million inhabitants of Taiwan, and reaffirming the U.S. commitment to the preservation of human rights of the people on Taiwan.

The Senate amendment contained a four-part declaration providing that it is United States policy to maintain extensive, close and friendly relations with the people on Taiwan; to make clear that the United States' decision to establish diplomatic relations with the People's Republic of China rests on the expectation that any resolution of the Taiwan issue will be by peaceful means; to consider any effort to resolve this issue by other than peaceful means, including boycotts or embargoes, as a threat to the peace and security of the Western Pacific area and of grave concern to the United States; and to provide the people on Taiwan with arms of a defensive character. The Senate amendment also provided that the American Institute in Taiwan shall take all appropriate steps to strengthen and expand the ties between the people of the United States and all the people on Taiwan and to promote full human rights for all the people on Taiwan, and to provide adequate personnel and facilities to accomplish these purposes.

The conference substitute begins with a Congressional finding drawn from provisions in the House bill and the Senate amendment. It states that, because the President has terminated governmental relations between the United States and the governing authorities on Taiwan, formerly recognized as the Republic of China, this Act is necessary (1) to help maintain peace, security, and stability in the Western Pacific, and (2) to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan.

The conference substitute then sets forth a six-point statement of United States policy. It states this policy to be (1) to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan, as well as the people on the China mainland and all other peoples of the Western Pacific area; (2) to declare that peace and stability in the area are in the political, security, and economic inter-

ests of the United States, and are matters of international concern; (3) to make clear that the United States decision to establish diplomatic relations with the People's Republic of China rests upon the expectation that the future of Taiwan will be determined by peaceful means; (4) to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States; (5) to provide Taiwan with arms of a defensive character; and (6) to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.

The conference substitute further states that nothing in this act shall contravene the United States interest in the human rights of Taiwan's approximately 18 million inhabitants. The preservation and enhancement of the human rights of the Taiwan people are reaffirmed as United States objectives.

The House provision interpreting the word "boycott" in this act was not retained in this section of the conference substitute because it is included, in substance, in section 4 which is described in "Application of Laws; International Agreements" below. Section 4(a) of the conference substitute provides for continued application of United States laws with respect to Taiwan as they did before January 1, 1979. Section 4(b)(1) specifically provides that U.S. laws referring or relating to a foreign country shall apply with respect to Taiwan, and section 4(b)(8) makes clear that Taiwan will be treated as a "friendly" country for purposes of United States laws. The anti-boycott provisions of the Export Administration Act, for example, are made applicable with respect to Taiwan by these sections.

IMPLEMENTATION OF U.S. POLICY WITH REGARD TO TAIWAN

The House bill provided that in furtherance of the principles set forth in the policy declaration, the United States will make available to Taiwan conventional defense articles and services of modern technology in such quantity as can be effectively utilized for Taiwan's defense. It required the President to inform the Congress promptly of threats to the peace and stability of the Western Pacific area and of any danger to U.S. interests arising from any threat to Taiwan's security. Appropriate U.S. action in response to any such danger was to be determined by the President and the Congress in accordance with constitutional processes. Furthermore, the President was required to ensure that determinations on defense articles and services for Taiwan would be made without regard to the views of the People's Republic of China. Such determinations of Taiwan's defense needs were to include review by U.S. military authorities for forwarding with their recommendations to the President and to the Congress.

The Senate amendment provided that in order to achieve the policy objectives, the United States would maintain its capacity to resist force or other forms of coercion which would jeopardize the security, or the social or economic system, of the people on Taiwan. It stated that the United States will assist the people of Taiwan to maintain a sufficient self-defense capability through the provision of arms

of a defensive character. The President was directed to inform the Congress promptly of any threat to the security or the social or economic system of Taiwan and of any danger to U.S. interests arising therefrom; and U.S. action to meet any such danger was to be in accordance with constitutional processes and procedures established by law.

The conference substitute provides that in furtherance of the policy set forth, the United States will make available to Taiwan such defense articles and services in such quantities as are needed to enable Taiwan to maintain a sufficient self-defense capability. The President and the Congress are to decide the nature and quantity of these arms and services solely according to their judgment of Taiwan's needs, and in accordance with the procedures established by law. Such determinations shall include review by U.S. military authorities in connection with recommendations to the President and the Congress. The President is directed to inform the Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger therefrom to the interests of the United States. Appropriate action by the United States in response to any such danger is to be determined by the President and the Congress in accordance with constitutional processes.

ARMS SUPPLY REPORTS

The Senate amendment required the President to transmit to Congress annually a report on the status of certain arms sales to Taiwan which are considered eligible for approval. The amendment also required notification to Congress 30 days prior to issuance to the People's Republic of China of any license-to export items on the United States Munitions List.

The House bill did not contain comparable provisions.

The conference substitute is the same as the House position. The committee of conference adopted the House position after determining that adequate information on these subjects would be made available to the Congress under existing law, and that the Congress would be informed in advance of any change in the present United States policy of not approving arms exports to the People's Republic of China.

APPLICATION OF LAWS; INTERNATIONAL AGREEMENTS

The House bill provided that no U.S. legal requirement with respect to diplomatic relations or recognition of a government shall apply with respect to Taiwan. It also stated that the absence of diplomatic relations and recognition shall not affect application of United States laws with respect to Taiwan, and that United States laws shall apply with respect to Taiwan as they did before January 1, 1979. In addition to these broad provisions, the House bill provided further that Taiwan may be granted a separate immigration quota under the Immigration and Nationality Act, that interests in tangible or intangible property acquired by the Republic of China prior to January 1, 1979, shall not be affected by U.S. recognition of the People's Republic of China, and that all treaties and other international agreements which were in force between the United States and the Republic of China on December 31, 1978, including multilateral conventions to which both were

parties, shall continue in force unless terminated in accordance with their terms or otherwise in accordance with United States laws.

The Senate amendment addressed a number of legal issues more specifically. It provided (in section 102) that no requirement for diplomatic relations or for recognition by the United States as a condition of eligibility for participation in programs, transactions, or other relations under United States law shall apply to Taiwan. It stated (in section 101(a)) that whenever any United States law refers to a foreign country, it shall apply with respect to Taiwan. It also contained provisions concerning the rights and obligations of natural and juridical persons (section 102(b)), access to U.S. courts by the Taiwan instrumentality (section 103), authority for the Executive branch to conduct programs with respect to Taiwan (section 105), the choice-of-law questions (section 109), and consideration of nuclear export applications (section 116). It further provided that recognition of the People's Republic of China shall not affect the ownership of properties held by the people on Taiwan before or after December 31, 1978 (section 110(a)). It stated that Congress approves the continuation in force of all treaties and other international agreements in force between the United States and the Republic of China prior to January 1, 1979, unless terminated in accordance with law (section 104), and that nothing in this act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution or any other international organization (section 115).

The conference substitute combines both the general House provisions and the more specific Senate provisions without weakening or narrowing the applicability of any of the provisions adopted. The House provisions applying United States laws to Taiwan are to be construed as all-inclusive, as intended in the House bill. The Senate provisions are to be construed as fully applicable to the matters to which they are directed; and at the same time, their inclusion in the conference substitute is not to be interpreted either as exhaustive or as excluding the applicability of general provisions to matters not specifically addressed. The conference substitute emphasizes this in stating that the application of subsection (a) of section 4 "shall include, but shall not be limited to," the items addressed in section 4(b).

The conference substitute further provides that the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, between the United States and Taiwan which were in force prior to January 1, 1979, unless terminated in accordance with law; and nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from any international financial institution or other international organization.

With regard to the issue of conditioning the right to sue and be sued on reciprocity, the Committee of Conference noted that Article VI(4) of the Treaty of Friendship, Commerce, and Navigation between the United States and the Republic of China (TIAS 1871, 63 Stat. 1289) guarantees freedom of access to the courts in each country by the nationals, corporations and associations of the other party; and that this Treaty continues in force. Therefore, no specific provision on this issue in the bill was considered necessary.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Senate amendment provided that the \$1,000 per capita income restriction applicable to the Overseas Private Investment Corporation in regard to its determining whether to provide any insurance, reinsurance, loans or guaranties for a project, shall not apply, with respect to investment projects in Taiwan. The Senate amendment required that in all other respects, OPIC apply the same criteria in evaluating investment projects on Taiwan as it applies in other parts of the world. The President was required to report to the Congress within five years concerning the desirability of continuing this provision in light of economic conditions on Taiwan at the time of the report.

The House bill contained no comparable provision.

The conference substitute is the same as the Senate provision, except that a 3-year limit was placed on the waiver of the per capita income criteria, and the Presidential reporting requirement is not included. The Committee of Conference, in adopting the Senate provision as amended, intended to provide for continuing OPIC activity on Taiwan at about the previous level, but did not intend a substantially expanded level of such activity.

THE AMERICAN INSTITUTE IN TAIWAN

The House bill provided that dealings of the United States Government with Taiwan shall be conducted through such nongovernmental entity as the President, after consultation with Taiwan, may designate. The House bill further provided that to the extent the President may specify, U.S. laws which apply to U.S. Government agencies shall apply to the designated entity as if it were a U.S. Government agency.

The Senate amendment provided that programs, transactions, and other relations conducted by the United States Government with respect to the people on Taiwan shall be conducted through the American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia. The Senate amendment expressly authorized the Institute to enter into, perform, and enforce agreements and arrangements with Taiwan on behalf of the United States Government. The Senate amendment stated that the Institute shall not be an agency or instrumentality of the United States. Rather, it provided that State law would be preempted to the extent it interferes with the Institute in carrying out its functions, that the Institute shall be exempt from Federal and State taxes (although this does not relieve the Institute of the obligation to collect the withholding tax imposed on the wages paid its employees) and that the Comptroller General shall be able to audit the Institute.

The conference substitute provides that U.S. Government programs, transactions, and other relations with respect to Taiwan shall be conducted through the American Institute in Taiwan, or such comparable successor nongovernmental entity as the President may designate. The conference substitute includes the Senate provision expressly granting authority for the Institute to enter into, perform, and enforce agreements and other transactions with respect to Taiwan.

The conference substitute is the same as the Senate amendment with regard to preemption, to treatment of the Institute under tax laws, and to auditing.

SERVICES BY THE INSTITUTE TO U.S. CITIZENS

The House bill provided that the designated entity may authorize its employees in Taiwan to assist and protect the interests of U.S. persons by performing acts authorized by U.S. laws to be performed outside the United States for consular purposes.

The Senate amendment authorized similar services by the employees of the Institute but did not use the word "consular."

The conference substitute is similar to the House provision, except that it refers to acts "such as are" authorized to be performed for consular purposes.

U.S. AGENCY DEALINGS WITH THE INSTITUTE

The House bill provided that Federal agencies may acquire and accept services from the designated entity without regard to the laws and regulations normally applicable to the acquisition of services by such agencies.

The Senate amendment authorized any Federal agencies to acquire and accept services from the Institute, but that waiver of procurement laws must be by executive order.

The conference substitute is similar to the Senate provision.

TAIWAN INSTRUMENTALITY

Dealings with Taiwan

The House bill provided that dealings of Taiwan with the U.S. Government shall be conducted through such instrumentality established by Taiwan as the President and Taiwan agree is the instrumentality appropriate for such dealings and which has the necessary authority under Taiwan laws to provide assurances and take other action on behalf of Taiwan.

The Senate amendment authorized the President to provide to or receive any performance, communication, assurance, undertaking, or other action from Taiwan for purposes of U.S. law though an instrumentality established by Taiwan.

The conference substitute combined the House and Senate provisions.

Location of Facilities

The House bill directed the President to make every effort to reach agreement with Taiwan to assure that the Taiwan instrumentality could use facilities at or near the locations of the Taiwan consular establishments which existed in the United States on December 31, 1978.

The Senate amendment authorized the President to extend to the Taiwan instrumentality, on a reciprocal basis, the same number of offices and personnel as previously operated in the United States before January 1, 1979.

The conference substitute requests the President to extend to the Taiwan instrumentality the option of maintaining the same number of offices and personnel in the United States as existed before January 1, 1979.

Privileges and Immunities

The House bill provided for the granting, on a reciprocal basis, of such privileges and immunities for the Taiwan entity in the United States and its personnel as are necessary to carry out their functions.

The Senate amendment also provided for privileges and immunities for the Taiwan instrumentality on a reciprocal basis, such privileges and immunities to be "comparable to those provided to missions of foreign countries."

The conference substitute is similar to the House provision.

REPORTING REQUIREMENTS

The Senate amendment required the Secretary of State to transmit to Congress the text of any agreement (as defined) to which the Institute is a party, and provided that agreements and transactions made by or through the Institute shall be subject to the same Congressional notification, review, and approval processes as are applied to the U.S. Government agencies on behalf of which the Institute is acting.

The Senate amendment also provided that for a 2-year period beginning with the effective date of this act, the Secretary of State shall transmit to the Congress every 6 months a report on economic relations between the United States and Taiwan, noting any interference with normal commercial relations.

The House bill did not have such comparable provisions.

The conference substitute is the same as the Senate provisions.

RULES AND REGULATIONS

The House bill authorized the President to prescribe regulations to carry out the purposes of this act.

The Senate amendment authorized the President to prescribe rules and regulations to carry out the purposes of this act, such rules and regulations to be transmitted promptly to the Congress.

The conference substitute is the same as the Senate provision, with an amendment limiting the transmission requirement to a 3-year period starting with the effective date of this act.

CONGRESSIONAL OVERSIGHT

The House bill provided that the Committee on Foreign Affairs of the House and the Committee on Foreign Relations of the Senate shall monitor the implementation of this act, the operation and procedures of the designated entity, the legal and technical aspects of the continuing relationship between the United States and Taiwan, and the implementation of the policies of the United States concerning security and cooperation in East Asia, and that such committees shall report, as appropriate, to their respective Houses on the results of their monitoring.

The Senate amendment provided for a Joint Commission on Security and Cooperation in East Asia, composed of six Members of the House and six Members of the Senate, to perform the same monitoring tasks over a period of 3 years, with an appropriations authorization of \$550,000 a year, and which would make semi-annual reports to the two committees and to the President.

The conference substitute is the same as the House provision, with an amendment including "other appropriate committees of the Congress," along with the Foreign Affairs and Foreign Relations Committees, as those charged with the monitoring responsibility. The committee of conference intends that reports resulting from such monitoring would be handled in accordance with the rules applicable in each House.

DEFINITIONS

(1) *Laws of the United States*

The House bill used the term "laws of the United States" throughout the bill and defined the term as including any statute, rule, regulation, ordinance, order, or judicial rule of decision of the United States or any political subdivision thereof.

The Senate amendment contained varying references to U.S. law, and contained no express definition.

The conference substitute is the same as the House provision.

(2) *Taiwan/People on Taiwan*

The House bill defined "Taiwan" to include, as the context may require, the islands of Taiwan and the Pescadores, the inhabitants of those islands, corporations and other entities and associations created or organized under the laws applied on those islands, and the authorities exercising governmental control on those islands (including agencies and instrumentalities thereof).

The Senate amendment contained three definitional provisions of the term "people on Taiwan" for purposes of different sections of the Senate amendment. The generally applicable definition defined "people on Taiwan" to include the governing authority on Taiwan, recognized by the United States prior to January 1, 1979, as the Republic of China; its agencies, instrumentalities, and political subdivisions; and the people governed by it or organizations and other entities formed under the law applied on Taiwan in the islands of Taiwan and the Pescadores.

The conference substitute defines "Taiwan", rather than "people on Taiwan", and states that the term "Taiwan" includes, as the context may require, the island of Taiwan and the Pescadores, the people on those islands, corporations and other entities and associations created or organized under the laws applied on those islands, and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and any successor governing authorities, including subdivisions, agencies, and instrumentalities.

AUTHORIZATION OF APPROPRIATIONS

The House bill provided that no Federal agency may make any funds available to the designated entity unless the Congress has expressly authorized and appropriated those funds to be made available to the designated entity.

The Senate amendment authorized to be appropriated to the Secretary of State for fiscal year 1980 such funds as may be necessary to carry out the provisions of this act, to remain available until expended. The Senate amendment further authorized the Secretary of State to

provide funds to the institute for four categories of expenses directly related to the provisions of this act.

The conference substitute is the same as the Senate provision authorizing appropriations to the Secretary of State for fiscal year 1980 to carry out the provisions of this act. The action of the committee of conference in expressly authorizing appropriations for fiscal year 1980 is not to be construed as opposition to funding for the implementation of this act in fiscal year 1979 or in the years subsequent to fiscal year 1980. To the contrary, the committee of conference intends that funding for the implementation of this act such as for the Institute shall be provided in fiscal year 1979, and in subsequent years, from the amounts regularly authorized and appropriated to the State Department. The Senate provisions further authorizing the Secretary of State to provide funds to the Institute for four categories of expenses was not included in the conference substitute because the Committee of Conference was satisfied that the Secretary of State already had this authority.

SEVERABILITY OF PROVISIONS

The Senate amendment provided that if any provision of this act or application thereof is held invalid, the remainder of the act and the application of such provision to any other person or circumstance shall not be affected thereby.

The House bill did not have a comparable provision.

The conference substitute is the same as the Senate provision.

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